

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SYLVIA TOPP,	:	
	:	
Plaintiff,	:	20 Civ. 10016 (LGS)
	:	
-against-	:	<u>ORDER</u>
	:	
HARRY PINCUS, et al.,	:	
Defendants.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on December 16, 2020, Plaintiff filed a pre-motion letter in anticipation of a motion for judicial notice of a certificate of occupancy (Dkt. No. 10), and on January 25, 2021, Defendants filed a responsive letter (Dkt. No. 23).

WHEREAS, on January 25, 2021, Defendants filed a pre-motion letter in anticipation of a motion for judgment on the pleadings and related motion to stay (Dkt. No. 24), and on January 28, 2021, Plaintiff filed responsive materials (Dkt. No. 25-27).

WHEREAS, an initial pre-trial and pre-motion conference was held on February 4, 2021. For the reasons stated during the conference, it is hereby

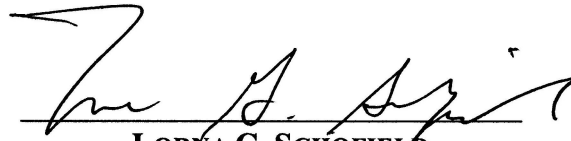
ORDERED that, by **February 11, 2021**, Plaintiff shall file any pre-motion letter in anticipation of a motion for judgment on the pleadings, and by **February 18, 2021**, Defendant shall file a responsive letter. Upon receipt of the parties' letters, the Court will set a briefing schedule for parties' cross motions for judgment on the pleadings and any related motion to stay. It is further,

ORDERED that, Plaintiff's December 16, 2020, pre-motion letter is construed as a motion for judicial notice and such motion is **DENIED** because serious questions exist as to the authenticity and accuracy of the certificate of occupancy. *See James v. Bradley*, 808 Fed. App'x 1, 3 (2d Cir. 2020) (Summary Order) ("Before taking judicial notice of a document, a district

court must consider whether ‘no serious question as to [its] authenticity can exist,’ *Roth v. Jennings*, 489 F.3d 499, 509 (2d Cir. 2007), and whether the contents of the document are ‘facts capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned,’ *Kramer v. Time Warner Inc.*, 937 F.2d 767, 774 (2d Cir. 1992) (quoting Fed. R. Evid. 201(b)(2)) . . .”).

A revised civil case management plan and scheduling order will issue separately.

Dated: February 4, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE